

## **AGENDA ITEM 2**

**STAFF REPORT**

To: City Council  
From: Derek Cole, City Attorney  
Agenda: September 28, 2016  
Re: Clarification of Concerns Regarding the Smoke-Free Ordinance



**DISCUSSION**

This report serves as a clarification of certain issues, raised at the last meeting, with the first iteration of the Smoke-Free Ordinance. The following is an explanation of the areas of concern:

**Section 8.26.040: Places Where Smoking is Not Prohibited.**

*80/20 Rule for Hotels*

Pursuant to California Labor Code Section 6404.5(e)(1), only “twenty percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment” is exempt from the workplace ban on smoking in enclosed spaces. Therefore, the City is regulating no less or no more than what is currently required by law for smoking within a hotel.

*30-Feet Rule*

Pursuant to California Health and Safety Code Section 118910, a local governing body may completely ban the smoking of tobacco or may regulate smoking in any manner not inconsistent with state law. Therefore, cities and counties may pass secondhand smoke laws that have stricter restrictions than those imposed by the state laws. Some cities and counties have passed local laws banning smoking in areas not covered by state law, including parks, beaches, outdoor dining areas, bus stops, and areas within 20 feet of commercial building entryways. These local laws are enforced by various local agencies and impose various penalties.

As part of the Smoke-Free Ordinance, the City has imposed a ban on smoking within 30 feet from a non-smoking area. The City may enforce this ban, as described above. Notably, other cities have enforced much stricter regulations on smoking in public places.

{EMP/00046862.}



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Mayor Wes Kulm • Vice Mayor Amanda Folendorf • Council Members Lambert Sobon, Elaine Morris, Scott Behiel  
City Administrator Michael McHatten • City Attorney Derek Cole, Cota Cole, LLP

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**CITY OF ANGELS** PO Box 667, 584 S.Main St., Angels Camp, CA 95222 **P:** (209) 736-2181 **F:** (209) 736-0709

**FISCAL IMPACT UPDATE**

Calaveras County Department of Health and Human Services Public Health Department has a tobacco prevention program with funds that can only be spent on tobacco prevention. They have committed to providing the City of Angels with signage and will implement a community education campaign. Therefore, the financial burden on the City is expected to be minimal, if any. Additionally, the City is likely to realize a savings long term in the maintenance budget, as there should be a significant reduction to cigarette litter in the downtown and city-owned parks.

{EMP/00046862.}



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**CITY OF ANGELS  
CITY COUNCIL  
ORDINANCE NO. 478**

**AN ORDINANCE ADDING CHAPTER 8.26 OF THE CITY OF ANGELS  
MUNICIPAL CODE REGULATING SMOKING WITHIN THE CITY OF ANGELS**

THE CITY COUNCIL OF THE CITY OF ANGELS DOES ORDAIN AS FOLLOWS:

**WHEREAS**, tobacco use causes death and disease and continues to be an urgent public health challenge, and

**WHEREAS**, secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

The U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke and separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke; and

1. The California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and
2. The California Environmental Protection Agency included secondhand smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm; and

**WHEREAS**, the City of Angels Camp and Calaveras County have not only received an "F" on the American Lung Association's Annual State of Tobacco Control Report, they rank in last place (tied only with Modoc county) out of 58 California Counties who have zero points by having absolutely no measureable smoking prevention provisions in place; and

**WHEREAS**, the rate of teen and youth smoking within the City of Angels Camp and Calaveras County is significantly higher than the State average. According to the 2014 Calaveras County Community Health Needs Assessment, 21% of 11th graders in the county report cigarette use compared to 13% in California. Adult use is estimated to be 20.2% compared to the California average of 13.6%; and

**WHEREAS**, smoking or smoking materials caused approximately 90,000 fires in the United States in 2011 and 540 civilian deaths, and

1. According to the California Department of Forestry and Fire Protection 2013 Wildfire Activity Statistics, 101 wildland fires across the state were caused by smoking, up from 72 smoking-caused fires in 2012. The true figure is likely much higher because 1094 fire causes were "undetermined" and smoking material evidence is easily destroyed by the fires it causes.

2. The Tuolumne-Calaveras Region of Cal Fire reported 16 smoking-caused fires in the five-year period from 2009 to 2013. Forest fires are the largest single disaster threat in rural areas and rapidly increasing hazard insurance premiums affect everyone.

**WHEREAS**, the City of Angels Camp has branded itself "The Base Camp for Mountain Sports in the Sierra" and continues to invest significant funds and efforts into promoting this brand, yet smoking is the antithesis of health and wellness. Furthermore, the 2015 Buxton Tourism and Business Expansion Study commissioned by the City has identified the areas from which Angels Camp's best visitor spending prospects originate. Most of these areas have already adopted Comprehensive Smoke Free Ordinances, therefore demonstrating that Smoke Free air is a priority for the very people that the City is working so hard to draw to the community; and

**WHEREAS**, exposure to secondhand smoke causes death and disease, as evidenced by the following:

1. Secondhand smoke is responsible for an estimated 50,000 deaths among nonsmokers each year in the United States; and
2. Exposure to secondhand smoke increases the risk of coronary heart disease and stroke by about 20% to 30%, causes lower respiratory tract infections such as pneumonia and bronchitis in as many as 300,000 children in the United States under the age of 18 months each year, and exacerbates childhood asthma; and

**WHEREAS**, tobacco use and exposure to secondhand smoke impose great social and economic costs, including increased healthcare expenditures, medical costs, and lost productivity; and

**WHEREAS**, exposure to secondhand smoke anywhere has negative health impacts, increases air pollution levels, and does occur at significant levels outdoors, and

**WHEREAS**, cigarette butts are a major and persistent source of litter; pose a health threat to young children; frequently end up in storm drains that flow into streams, rivers, creeks, and ultimately the ocean; adversely impact the health of both pets and wildlife, and can take up to several years to degrade; and

**WHEREAS**, electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products; and are marketed in such a way to appeal to young children with candy-like flavors and packaging; and

**WHEREAS**, recent alarming studies have indicated that use of electronic smoking devices among children has increased three-fold in the last year, reversing decades of declining tobacco use among children and teens; and

**WHEREAS**, existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances, and conclude that exposure to vapor from electronic smoking devices may cause passive or secondhand vaping; and

**WHEREAS**, society is becoming less tolerant and less accepting of smoking, particularly in Angels Camp, where a majority of participants in surveys and community meetings indicated a need to regulate smoking within the City limits; and

**WHEREAS**, though widely perceived as a comprehensive smoke-free air law, the state smoke-free workplace law (California Labor Code section 6404.5) still has several exemptions and loopholes that permit smoking in a wide variety of workplaces, disproportionately impacts low-income and minority populations, and does not expressly prohibit the use of electronic smoking devices in enclosed workplaces; and

**WHEREAS**, California cities and counties have the legal authority to adopt local laws that make indoor places of employment nonsmoking; and

**WHEREAS**, laws restricting smoking and the use of tobacco products have recognizable benefits to public health and medical costs, and

**WHEREAS**, state law prohibits smoking within 20 feet of playgrounds and tot lots and expressly authorizes local communities to enact additional restrictions; and

**WHEREAS**, there is no Constitutional right to smoke; and

**WHEREAS**, this proposed Ordinance will preserve and enhance the environment within the City of Angels Camp and is exempt from the requirements of the California Environmental Quality Act ("CEQA"), as amended, pursuant to Section 15061(b)(3) or Section 15308 of the CEQA Guidelines; and

**WHEREAS**, the Angels Camp 2020 General Plan contains an Air Quality Element pursuant to CEQA and Appendix G of the CEQA Guidelines, and adoption of this Ordinance will demonstrate the City's commitment to implement programs to improve Air Quality within the City.

**NOW THEREFORE**, the City Council of the City of Angels Camp does hereby ordain as follows:

**Section I:** Chapter 8.26 of the Angels Camp Municipal Code is added as follows:

**Section 8.26.010** Purpose.

To protect the public health, safety and general welfare by providing a smoke-free and vapor- free environment in public where nonsmokers may be exposed to secondhand smoke and vapor; and to guarantee the right of nonsmokers to breathe smoke-free and vapor-free air, and to recognize that

the need to breathe smoke-free and vapor-free air has priority over the desire to smoke or use vapor products.

**Section 8.26.020**      **Definitions.**

Unless the context otherwise requires, the definitions and general provisions set forth in this section shall govern the construction of this chapter:

- A. "Business" means any sole proprietorship, partnership, non-profit corporation, for-profit corporation, landlord or other entity, including retail, professional, charitable and educational entities and establishments, where goods or services are sold or provided, whether the entity has employees or not.
- B. "Chief of Police" means the City of Angels police chief or his or her designee.
- C. "City Administrator" means the city administrator of the City of Angels or his or her designee. In the event the office of the city administrator shall be vacant, it shall mean the City of Angels police chief.
- D. "Common Area" means any area of a Multi-Unit Residence that residents of more than one unit of the Multi-Unit Residence are entitled to enter or use; including but not limited to, halls, paths, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, restrooms, laundry rooms, cooking areas and eating areas.
- E. "Multi-Unit Residence" means any property containing two (2) or more residential units, including but not limited to apartment buildings, condominium complexes, senior and assisted living facilities and long term health care facilities. Multi-Unit Residences do not include a hotel or motel that meets the requirements of California Civil Code Section 1940(b)(2) or a mobile home park. A single family residence with a detached or attached in-law or second unit *is* considered a Multi-Unit Residence for purposes of this ordinance if the second unit is rented or leased separately from the main dwelling.
- F. "Outdoor Sports and Recreation Areas" means any area open to the general public for recreational purposes, regardless of any fee or age requirement; including, but not limited to athletic fields, sports complexes, parks, pools, courts, trails, path, tracks, ski runs, skateboard parks or other areas intended for athletic activity or exercise and includes areas intended for use by athletes and spectators. The playing areas of privately owned golf courses, including tees, fairways, greens, roughs, fairways, sand traps, and cart paths, are not included in this definition. However, clubhouses, buildings, and structures associated with the golf courses shall be considered "public places" as defined below.
- G. "Public Place" means any area, publicly or privately owned, in which the public is invited or in which the public is permitted, including, but not limited to: businesses, places of employment, banks, educational facilities, health facilities, public transportation facilities, reception areas, restaurants, outdoor dining areas, retail food production and marketing establishments, retail stores, theaters and waiting rooms. Public places shall also include elevators, stairways, hallways and restrooms appurtenant to the areas commonly used by the general public and entryways, courtyards,

sidewalks or paths leading to exits and entrances of areas commonly used by the general public. Retail or wholesale tobacco shops and private smoker's lounges, as defined in California Labor Code Section 6404.5(e), are not included in this definition.

H. "Service Area" means any publicly or privately owned area, including streets and sidewalks, that is designed for, or regularly used by one or more persons to receive a service, wait to receive a service, or make a transaction, whether or not such service or transaction includes the exchange of money. The term "Service Area" includes, but is not limited to, areas adjacent to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines, or taxi stands.

I. "Smoking" means engaging in an act that generates smoke, including but not limited to: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, an operated Electronic Smoking Device or a lighted cigarette of any kind, 'vaping' or vaporizing; or lighting or igniting a pipe, a hookah pipe, a cigar or a cigarette of any kind and any other type of unit devised for the purpose of burning any substance for human inhalation.

J. "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts. The term "Smoke" includes, but is not limited to, tobacco smoke, Electronic Smoking Device vapors, marijuana smoke, crack cocaine smoke and smoke generated by any other weed, plant or other type of organic or inorganic substance.

#### **Section 8.26.030 Smoking Prohibitions.**

Smoking is prohibited in all of the following places and areas within the City:

- A. Public Places and within twenty (20) feet of all Public Places.
- B. City Buildings and Facilities and within twenty (20) feet of all City buildings and facilities.
- C. Entrances, Exits and Operable Windows of all Public Places and within twenty (20) feet of any entrance, exit or operable window of any Public Place.
- D. Outdoor Sports and Recreation Areas and within twenty (20) feet of such areas.
- E. Sidewalks or Paths owned by the City of Angels Camp or designated for use by the General Public and within twenty (20) feet of Sidewalks or Paths.
- F. Common Areas of Multi-Unit Residences and within twenty (20) feet of such areas.

Discarding of smoking materials or waste, including, but not limited to, cigarette butts, whole or partially smoked cigarettes, cigarette packages, e-cigarette cartridges, cigars, mouthpieces, and any other device, remnant, portion or part of any smoking apparatus or device upon or within the ground, street, sidewalk, planter box, landscaping or in any trash receptacle that is not specifically designed for disposal of burning materials shall be considered a violation of this section. Smoking materials are to be transported in a fireproof container to an appropriate waste



facility by the person who consumed them. Every piece of litter shall be considered a separate violation under this title.

**Section 8.26.040**      **Places Where Smoking is Not Prohibited.**

- A. Private residential property developed and occupied with single-family detached housing, with the consent of the owner, unless such residential property is used as a child care or a health facility, provided the smoking does not occur within 20 feet of another property or single-family residence. Nothing in this ordinance shall require an owner or occupant of private residential property to allow smoking on their property.
- B. In up to 20 percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least 80 percent of its guest rooms as nonsmoking rooms, appropriately signs nonsmoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from nonsmoking rooms and not interspersed. Nothing in this ordinance shall require a hotel or motel to provide smoking rooms; and the owner or operator of a hotel or motel may choose to prohibit smoking throughout the property, or choose to designate more than 80 percent of guest rooms as nonsmoking.
- C. Inside a private vehicle, unless there are children under the age of 18 in the vehicle.
- D. Unenclosed areas on vacant, privately owned property, with the express consent of the owner, provided that all smoking activity takes place at least twenty (20) feet away from all areas described in 8.26.030 and provided that the area is free of fire hazards, such as dry grass, leaves or other combustible materials.
- E. Any unenclosed area located more than thirty (30) feet away from all areas described in Section 8.26.030 in which no non-smoker is present and due to the time of day or other factors, it is not reasonable to expect another person to arrive; and provided that the area is free of fire hazards, such as dry grass, leaves or other combustible materials. If another person arrives, smoking activity should immediately cease and the person engaged in the smoking activity must remove all smoking material, butts and other refuse for disposal in a safe, sanitary manner.
- F. Nothing in this section shall be construed to permit smoking in any area in which smoking is otherwise prohibited by this title, or prohibited by State law or Federal law. In the event of a conflict between this ordinance and any other law or code, the more smoking-prohibitive rule of the two shall apply.
- G. Nothing in this section shall prohibit a property owner or person with legal control and authority over a property from establishing non-smoking policies that are more prohibitive than those outlined in this chapter.

**Section 8.26.050**      **Owner, Operator, Manager or Landlord in Control of Premises.**

A No Owner, Operator, Manager or Landlord of any Business as defined in this chapter shall knowingly or intentionally permit the smoking of tobacco products in an area which is under the Business entity's control and in which smoking is prohibited.

B No Owner, Operator, Manager or Landlord of any Business shall knowingly or

intentionally permit the presence or placement of ash receptacles, such as, without limitation, ash trays or ash cans, within an area which is under the Business entity's control and in which smoking is prohibited, including, without limitation, within 20 feet of any such area.

C Notwithstanding any other provision of this chapter, any Owner, Operator, Manager or Landlord of any Business, or other person who controls any area may declare that any part of such area in which smoking would otherwise be permitted is a nonsmoking area.

#### **Section 8.26.060 Posting of Signs.**

A "No Smoking" signs, with letters of not less than one inch in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted at in or outside of every building or other place where smoking is controlled by this chapter, by the owner, operator, manager, landlord or other person having control of such building or other place. When a sign is posted on the exterior of a building to indicate no smoking, it shall include the distance limitations contained in this chapter.

B Every theater owner, manager or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.

C "No Smoking" signs shall be posted on City Property and public right-of-ways at the discretion of the city administrator.

D In no case shall the absence of a sign or signs be a defense against compliance with this Chapter.

#### **Section 8.26.070 Violations, penalties and enforcement.**

A It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the regulation under this chapter to fail to comply with its provisions

B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.

C Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:

1. A fine not exceeding \$100, for first violation;
2. A fine not exceeding \$200, for a second violation of this chapter within one year;
3. A fine not exceeding \$500, for each additional violation of this chapter within one year; and
4. Any peace officer, public health official and/or code enforcement officer shall have the authority to enforce the provisions of this chapter. Punishment under this chapter shall not preclude punishment pursuant to any provision of law proscribing the act of littering.

D Misdemeanors. Any person who violates any provision of this article in excess of three (3) times within one (1) year shall be deemed guilty of a misdemeanor.

E Each day that a violation of this article continues shall constitute a separate violation of this article.

F In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the City, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief. In any such action, the City may seek reimbursement for the costs of any investigation, inspection or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing administrative action under this article. The foregoing remedy shall be deemed nonexclusive, cumulative and in addition to any other remedy the City may have at law or in equity, including but not limited to injunctive relief to prevent violations of this article.

G Any owner, manager, operator or employer of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the appropriate provisions thereof.

**Section 8.26.080 Statutory Severability.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unenforceable.

**Section III:**

The City Council determines that this ordinance is not subject to the California Environmental Quality Act ("CEQA") because the adoption of this ordinance is not a project, as defined by CEQA, but is instead an administrative action per California Code of Regulations, Title 14, section 15378(b)(2). Even if the ordinance is subject to CEQA, it is nonetheless exempt from that Act pursuant to California Code of Regulations, Title 14, Section 15060(c)(2) and (c)(3) as the activities regulated herein will not result in any direct or reasonably foreseeable indirect physical change in the environment. In addition, the ordinance is exempt under the "common sense" exemption to CEQA, California Code of Regulations, Title 14, Section 15061(b)(3), as it can be seen with certainty that the adoption of an ordinance regulating smoking within city limits will not have any significant impact on the environment.

**EFFECTIVE DATE:**

The foregoing Ordinance or a summary shall, before the expiration of fifteen (15) days of its passage, be published with the names of the Council Members voting for and against the same once in a newspaper of general circulation printed and published in the County of Calaveras, State of California, and said Ordinance shall take effect and be in force thirty (30) days after the passage thereof.

This Ordinance was considered by City Council at its regular meeting on September 20, 2016 and passed and adopted at a regular meeting of the City Council of the City of Angels held on October 4, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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WesKlum  
Mayor

ATTEST:

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Mary Kelly  
City Clerk

### **AGENDA ITEM 3**


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**CITY OF ANGELS PO Box 667**, 1404 Vallecito Road, Angels Camp, CA 95222 **P:** (209) 736-4081 **F:** (209) 736-2861

For the meeting of: October 4, 2016

Title: Resolution to approve abatement cost for mitigating fire hazard/ public nuisance on lot #363 Greenhorn Creek subdivision.

By: Nathan Pry, Fire Marshal/Deputy Fire Chief

Approved: 

**SUMMARY RECOMMENDATION**

Staff recommends Council pass resolution imposing abatement costs on APN: 058-080-007 during the 2016 fire season.

**BACKGROUND**

The Fire Marshal in accordance with the City of Angels Municipal Code Chapter 8.10 Abatement of weeds and rubbish, issued notices to the property owner in accordance with the County Tax Assessors records, to mitigate fire hazards and public nuisance. Approximately 125 property owners were sent notices to abate during the 2016 fire season. Initial notice to abate was mailed to property owners on May 17, 2016. One property failed to abate the hazard/nuisance in the 15 day time period granted to them under the municipal code. The Fire Marshal then issued the property owner a notice of intent to abate the parcel and wrote a citation for the property. The second notice along with the citation and a copy of the Municipal code, explaining the options to appeal or abate prior to further action, were sent via certified mail. After an additional 15 days of no action from the property owner, the property was abated by an outside contractor. On August 24, 2016 a notice of violation was sent via certified mail to the property owner requesting payment for the abatement of the property. To date, there has been no communication from the property owner. In an effort to recover the cost incurred by the City, Staff is recommending the following resolutions be approved and the total costs incurred be added to the next County Property Tax assessment.

**FINANCIAL IMPACT**

\$723.80 total cost of City Staff time, abatement costs, and materials already expended to date on abatement of the property.



**CITY OF ANGELS  
CITY COUNCIL  
RESOLUTION #16-36**

**A RESOLUTION CONFIRMING THE COSTS TO ABATE A PUBLIC NUISANCE ON  
CALAVERAS COUNTY ASSESSOR PARCEL NUMBER 058-080-007 LOCATED AT 763  
GRINDING ROCK ROAD AND DIRECTING A SPECIAL ASSESSMENT AND LIEN UPON  
THE PARCEL IN THE AMOUNT OF \$723.80.00**

**WHEREAS**, Sections 8.10.030 and 8.10.040 of the Angels Camp Municipal Code (“ACMC”) declares that every owner of real property within the City of Angels shall maintain his or her property clean and free of weeds, dead vegetation, rubbish, waste, and other material that may be capable of combusting, causing injury to neighboring property, or that is offensive to the sense of those living within the vicinity of the property; and

**WHEREAS**, ACMC Section 8.10.050 requires any property owner who violates the above mentioned sections to abate violations of those sections within 15 days of notice by the City; and

**WHEREAS**, ACMC Section 8.10.090 authorizes the City to enter onto property to abate violations of ACMC Sections 8.10.030 and 8.10.040 following the property owner’s failure to timely abate the violations within the time provided; and

**WHEREAS**, ACMC Section 8.10.100 authorizes the City to impose the cost of abatement in accordance with Section 8.10.090 as a lien and as a special assessment to be placed on the tax bill for the property pursuant to California Government Code section 38773.5; and

**WHEREAS**, In accordance with the above code sections, the City gave notice to the owner of the above property on July 16, 2016 that it was maintaining a nuisance and ordering the owner to abate its violations of Sections 8.10.030 and/or 8.10.040; and

**WHEREAS**, the owner of the real property, Mahal Kiran J Trustee, did not abate this nuisance within 15 days of receiving notice of violation from the City; and

**WHEREAS**, because the property owner failed to abate its violations within the required time, and because they did not request a hearing to challenge the notice of violation received, the City entered onto the parcel where the violations existed and caused the violations to be abated; and

**WHEREAS**, in accordance with ACMC Section 8.10.100(A), the City sent the owner of the real property a written demand by mail to pay the City’s abatement expenses in the amount of \$658.00 within 30 days; and

**WHEREAS**, the property owner did not pay the City’s abatement expenses within 30 days, as demanded.

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of Angels confirms that the costs incurred by the City for abatement of the nuisance on Calaveras County Assessor Parcel Number 058-080-007 are \$658.00; and

**BE IT FURTHER RESOLVED**, that consistent with Resolution 15-06, the City Council imposes a fee of \$65.80 for the administrative costs associated with the abatement described above; and

**BE IT FURTHER RESOLVED**, the City Council directs a special assessment and lien upon the parcel in the amount of \$723.80

**ON A MOTION** by Council Member \_\_\_\_\_ seconded by Council Member \_\_\_\_\_, the foregoing Resolution was duly passed and adopted by the City of Angels City Council of the County of Calaveras, State of California this 4th day of October, 2016 by the following vote

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Wes Kulm  
Mayor

ATTEST:

\_\_\_\_\_  
Mary Kelly  
City Clerk



**HOME OF THE JUMPING FROG**



## Weed Abatement Costs

Owner	Address	APN	Fire	City Attorney	Abatement
Kiran Mahal Trustee	Lot #363 Greenhorn Creek	058-080-007	\$458	\$unknown	\$200

### Breakdown of Costs Fire Dept:

\$248- 4 hours of Fire Marshal Time  
 \$200- Citation for failure to abate public nuisance timely Chapter 8.10 City Municipal code  
 \$10- Post office costs and office materials  
 \$200- Abatement contractor invoice to clear parcel  
 \$65.80 10% Administrative fee  


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 \$723.80 total

### Breakdown of prevention action timeline:

#### Parcel owned by Kiran Mahal

First Mailing: May 17, 2016  
 Citation Issued: June 15, 2016  
 Second Mailing (Certified): June 15, 2016  
 Abatement by City: Authorized July 1, 2016  
 Abatement completed by contractor: July 15, 2016  
 Order to pay debts: August 24, 2016

CITY OF ANGELS PO Box 667, 1404 Vallejo Road, Angels Camp, CA 95222 P: (209) 736-4081 F: (209) 736-2861

## NOTICE OF FIRE HAZARD/NUISANCE

May 17, 2016

MAHAL KIRAN J TRUSTEE  
5050 HACIENDA DR APT 1638  
DUBLIN CA 94568

APN: 58080007000

Lot Location: 763 GRINDING ROCK RD GREENHORN CREEK UNIT 2C LOT 363 IN 32, 33 T1R13

Notice is hereby given that an inspection of your property indicates that a fire hazard/nuisance exists.

In accordance with Chapter 8.10 of the Angels Municipal Code and the Fire Code, you are hereby notified to abate the hazard/nuisance as identified below and as detailed in the text of Chapter 8.10 of the Angels Municipal Code.

To comply with this notice and Chapter 8.10 of the Angels Municipal Code you shall take the following action:

- ☒ Parcels less than one acre, cut all combustible weeds/grass from the parcel to below 4 inches in height and remove any down tree branches.
- ☐ Parcels greater than one acre, remove all combustible weeds/grass from parcel to below 4 inches in height within 100 feet of structures and within 30 feet of any streets, driveways, and property lines of improved parcels.
- ☐ Remove all man-made combustible rubbish/debris from the parcel.

Failure to abate the hazard/nuisance within 15 days from the receipt of this notice will result in a \$200 dollar fine and set a date for your parcel to be abated by the City at your expense not less than 15 days and not more than 20 days after fines are levied.



Nathan Pry, Fire Marshal





## FIRE DEPARTMENT

CITY OF ANGELS PO Box 667, 1404 Vallecito Road, Angels Camp, CA 95222 P: (209) 736-4081 F: (209) 736-2861

### Public Nuisance Abatement Notice Chapter 8.10 City of Angels Municipal Code

June 16, 2016

Delivery by Certified Mail to:

Kiran J Mahal  
5050 Hacienda Dr. Apt. 1638  
Dublin, CA. 94568

RE: APN#058-080-007 Lot #363 Greenhorn Creek Subdivision Angels Camp, Ca. 95222

Dear Kiran J. Mahal ,

The City of Angels has received a number of complaints regarding the accumulation of weeds upon your property located on Grinding Rock Rd. in Angels Camp, Ca. and has declared it a public nuisance. We have attempted to notify you of this code violation by mailing you a notice to abate dated May 17, 2016. As of this date, we are beyond the 15 days granted to you to abate the property without penalties and have enclosed a citation for failing to abate the property within the time allowed. The City of Angels requests you to abate the property prior to July 1, 2016 or the property shall be abated by the City of Angels at the owner's (your) expense. Also enclosed is a copy of the City of Angels Municipal code Chapter 8.10 for your review.

As per Chapter 8.10 of the City's municipal code, you have the right to appeal the decision of the enforcement officer requiring the abatement. If you choose to appeal the decision of the enforcement officer you are required to notify the officer in writing of your intention to appeal within ten days of this notice.

You have the following options to comply with this abatement notice;

Option 1: Pay the fine levied against you in the form of Citation #1012 Case #2016-03 and remove the public nuisance/ fire hazard that resides on your property.

OR

Option 2: Appeal the decision of the enforcement officer by notifying the enforcement officer in writing of your intention to appeal the decision.

Please do not hesitate to contact me should you have any questions about this Notice or how you may achieve compliance with the Municipal Code.

Nathan Pry, Fire Marshall  
City of Angels  
P.O. Box 667  
Angels Camp, Ca. 95222  
(209)736-4081 office  
nathanpry@angelscamp.gov





## FIRE DEPARTMENT

CITY OF ANGELS PO Box 667, 1404 Vallecito Road, Angels Camp, CA 95222 P: (209) 736-4081 F: (209) 736-2861

August 24, 2016

MAHAL KIRAN J TRUSTEE  
5050 HACIENDA DR APT 1638  
DUBLIN CA 94568

Re: Notice of Violation of Municipal Code Section 8.10.030  
Citation Date: June 15, 2016  
APN: 058-080-007

Dear Kiran J. Mahal Trustee:

This letter is sent in reference to the above Notice of Violation ("NOV"), issued on June 16, 2016, which informed you were maintaining combustible weeds on your property and ordered you to remove such weeds. Because you failed to respond to the NOV or timely appeal it to the City Council, City staff caused the removal of the nuisance conditions you were creating or allowing in accordance with Angels Camp section 8.10.90. Because the City was required to take this action, you are demanded to pay the sum of \$658.00, which corresponds with the costs of the abatement work the City was required to undertake to correct your violation.

By this letter, you are directed to remit payment of the foregoing sum within 30 days of the above date. Payment of this amount shall be made payable on a check or money order made payable to "City of Angels Camp," which must reference the NOV and APN numbers indicated above. Payment shall be submitted to:

Angels Camp City Hall  
P.O. Box 667  
Angels Camp, Ca. 95222

Should you fail to make payment of the referenced amount within 30 days of this letter, then as provided in Section 8.10.100 of the Angels Camp Municipal Code, the above-referenced sum, along with a nuisance-abatement service fee, shall be placed as a special assessment on the property-tax bill for your property. Once the assessment is placed on the tax bill, the Angels Camp Municipal Code provides that the property may be sold if the amount owed remains delinquent for more than three years.

Your immediate attention to this notice will be appreciated. Please do not hesitate to contact me should you have any questions about this notice.

Sincerely,

Nathan Pry, Fire Marshal  
City of Angels Fire Department



Angels Camp Fire Department

☐ Parking ☐ MISDEMEANOR  
☐ Traffic ☒ Nontraffic

AC

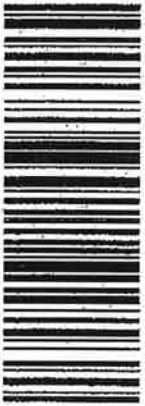
1012

## NOTICE TO APPEAR

Date of Violation 1. 6/15/16		Time 1530		<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM		Day of Week S M T W T F S		Case No. 2016-03	
Name (First, Middle, Last) 2. Kiran J. Mahal									
Address 3. 5050 Hacienda Dr. Apt 1638									
City 4. Dublin		State Ca.		ZIP Code 94568		<input type="checkbox"/> Juvenile (Phone No.) ( )			
Driver Lic. No. 5.		State		Class		<input type="checkbox"/> Commercial <input type="checkbox"/> Yes <input type="checkbox"/> No		Age / /	
Sex 6.		Hair		Eyes		Height		Weight	
Race		Other Description							
Veh. Lic. No. or VIN 7.		State		Reg. MO/YR		<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b))			
Yr. of Veh. 8.		Make		Model		Body Style		Color	
Evidence of Financial Responsibility 9.		<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)							
Registered Owner or Lessee 10. <input type="checkbox"/> Same as Driver									
Address 11. <input type="checkbox"/> Same as Driver									
City 12.		State		ZIP Code					
Correctable Violation (Veh. Code, § 40810) <input type="checkbox"/> Booking Required (see reverse) Misdemeanor or Infraction (Circle)									
Yes		No		Code and Section		Description			
13. <input checked="" type="checkbox"/>				Ch. 8.10 City of Angels Muni. Code		M		①	
14. <input type="checkbox"/>						M		I	
15. <input type="checkbox"/>						M		I	
16. <input type="checkbox"/>						M		I	
Speed Approx. 17. >		P.F./Max Spd.		Veh. Lmt.		Safe		<input type="checkbox"/> Continuation Form Issued	
Location of Violation(s) 18. at		City/County of Occurrence		W		E			
Comments (Weather, Road & Traffic Conditions) 19. <input type="checkbox"/> Accident									
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.									
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed at (place) Violation location									
21. <u>1111</u>		Arresting or Citing Officer		Serial No.		P-210		6/16 to 6/19	
22. <u>11</u>		Date		Name of Arresting Officer, if different from Citing Officer		Serial No.		Dates Off	
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.									
23. X Signature <u>mailed to owner</u>									
24. WHEN: ON OR BEFORE THIS DATE: <u>1/1</u> Time: <input type="checkbox"/> AM <input type="checkbox"/> PM Time: <input type="checkbox"/> AM <input type="checkbox"/> PM									
WHAT TO DO: <input type="checkbox"/> Adults: Before a Superior Court Judge at Government Center 891 Mountain Ranch Rd., San Andreas, CA 95249 209-754-6336									
25. WHERE: <input type="checkbox"/> Juveniles: Contact Probation Dept. within 15 days at Government Center 891 Mountain Ranch Rd., San Andreas, CA 95249									
<input type="checkbox"/> Juveniles: Contact Angels Camp Police Dept. 209-736-2567 within 10 days									
<input type="checkbox"/> Parking Violation: Angels Camp Police Dept., Box 459, Angels Camp, CA 95222 209-736-2567									
<input checked="" type="checkbox"/> Public Nuisance Violation: Angels Camp City Hall, Box 667, Angels Camp, CA 95222 209-736-2181									
26. <input type="checkbox"/> To Be Notified									
COURT COPY									
Judicial Council of California Form Rev. 09-20-05 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600; Pen. Code, § 853.9)									
SEE REVERSE TR-130									

City of Angels  
584 S. Main Street  
PO Box 667  
Angels Camp, CA 95222

CERTIFIED MAIL



7015 1660 0000 9677 0674

U.S. POSTAGE  
PAID  
ANGELS CAMP, CA  
95222  
AUG 24, 18  
AMOUNT  
**\$6.47**  
R2305H128901-08



94568

1000

**Mahal Kiran J Trustee**  
**5050 Hacienda Dr. Apt. 1638**  
**Dublin, CA 94568**

NIXIE

957 DE 1

0008/31/16

RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD

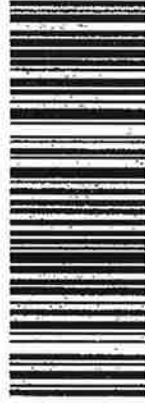
94568\$7958NKC  
95222>0667

BC: 95222066767

\*1572-03526-24-44

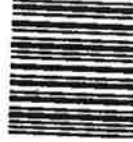
CERTIFIED MAIL

City of Angels  
584 S. Main Street  
PO Box 667  
Angels Camp, CA 95222



7015 1660 0000 9676 8352

U.S. POSTAGE  
PAID  
ANGELS CAMP, CA  
95222  
JUN 16, 18  
AMOUNT  
**\$6.68**  
R2305K131973-13



94568

1000

**Kiran Mahal Trustee**  
**5050 Hacienda Dr. Apt. 1638**  
**Dublin, CA. 94**

NIXIE

957 DE 1

0007/03/18

RETURN TO SENDER  
NO SUCH STREET  
UNABLE TO FORWARD

94568\$7958NKC  
95222>0667

BC: 95222066767

\*2372-01560-24-24

615

# INVOICE

Date: 7/15/2016

Miguel Lima  
P.O. Box 1628  
San Andreas, Ca. 95222  
209.559.9973 cell

Attn: Nathan Pry  
City of Angels  
Angels Camp. Ca. 95222

Salesperson	Job	Payment Terms	Due Date
Mike Lima	Lot Clearing LOT#363	Send Bill.	

Qty	Description	Unit Price	Total
1	Lot Clearing Lot #363 Grinding Rock Rd.	Flat Rate	200.00
Subtotal			200.00
Sales Tax			-----
Total			200.00

Thank you for your business!